



In the Best Interest of the Voter

*The Final Report of the
Indiana Bipartisan Task Force
on Election Integrity*

October 23, 2001

TASK FORCE MEMBERS

Fred Biesecker and Joyce Martin

Proxy for Governor Frank O'Bannon

Sue Anne Gilroy

Indiana Secretary of State, Chairman

Kathy Kreag Richardson

State Representative

Assistant Republican Leader

Russell Stilwell

State Representative

Assistance Majority Whip

Becky Skillman

State Senator

Assistant Majority Caucus Chair

Richard D. Young

State Senator

Minority Floor Leader

Sarah M. Taylor

Marion County Circuit Court Clerk

President, Indiana Association of Clerks in the Circuit Courts of Indiana

Pam Finlayson

Allen County Director of Elections

Kay P. Kiser

White County Circuit Court Clerk

Nan Nidlinger

Adams County Circuit Court Clerk

Margaret Tucker

Owen County Recorder

President, Association of Indiana Counties

David Heath

Mayor, City of Lafayette

President, Indiana Association of Cities and Towns

Mike McDaniel

Chairman, Indiana Republican State Central Committee

Robin Winston

Chairman, Indiana Democrat State Central Committee

Aaron E. Haith

Citizen Representative

Lettice Otero

Citizen Representative

SUBCOMMITTEE ASSIGNMENTS

- **VOTER REGISTRATION ISSUES**
Co -Chairpersons: Pam Finlayson and Fred Biesecker
Kathy Richardson
Robin Winston
Mike McDaniel
Russ Stilwell
- **VOTING AND VOTE COUNTING SYSTEMS & TECHNOLOGY**
Co -Chairpersons: Kay Kiser and Dave Heath
Nan Nidlinger
Russ Stilwell
Becky Skillman
Richard D. Young
- **ELECTION DAY PROCESS ISSUES**
Co -Chairpersons: Sarah Taylor and Lettice Otero
Aaron Haith
Mike McDaniel
Kay Kiser
Dave Heath
- **REMOTE VOTING ISSUES**
Co -Chairpersons: Kathy Richardson and Margaret Tucker
Robin Winston
Pam Finlayson
Fred Biesecker
- **THE REPORT DRAFTING COMMITTEE**
Chairperson: Sue Anne Gilroy
Pam Finlayson
Sarah Taylor
Dale Simmons, Co-Counsel, Indiana Election Division
Kristie Robertson, Co-Counsel, Indiana Election Division
Spencer Valentine, Co-Director, Indiana Election Division
Stephanie Mannon, Special Assistant to the Secretary of State

Executive Order 01-02

FOR: CREATION OF BIPARTISAN TASK FORCE ON ELECTION INTEGRITY

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, the health and integrity of our democracy depends upon the reliability and trustworthiness of our election laws, procedures and technology; and

WHEREAS, the closeness of the 2000 national election and the difficult period following the election tested the electoral process and exposed flaws in that process; and

WHEREAS, in order to ensure Indiana's citizens that Indiana's elections are the most accurate, accessible and secure in the country, there is a need to review Indiana's election laws, procedures and technology.

NOW, THEREFORE, I, Frank O'Bannon, by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

- 1. The Bipartisan Task Force on Election Integrity (Election Integrity Task Force") is hereby created and established.*
- 2. The Election Integrity Task Force shall conduct a series of public hearings and take testimony in order to fulfill its mission of ensuring that Indiana's elections are accurate, accessible and secure, and may create subcommittees as necessary.*
- 3. To expedite its work and maintain its focus, the Election Integrity Task Force shall limit its study to the following areas:*
 - a. local and statewide voter registration systems and databases,*
 - b. voting and vote-counting systems,*
 - c. election dates and voting hours,*
 - d. location and accessibility of polling places,*
 - e. on-line voter registration,*
 - f. remote voting (including internet and mail),*
 - g. absentee and military ballots, and*
 - h. fiscal impact of the proposed reforms.*
- 4. The Election Integrity Task Force shall consist of not more than sixteen (16) members, with equal numbers of democrat and republican members, who shall be appointed by and serve at the pleasure of the Governor, and shall include the following individuals where practicable:*
 - a. The Governor or his designee,*
 - b. The Secretary of State or her designee, who shall serve as Chair of the Task Force,*
 - c. Two (2) members of the Indiana House of Representatives, one from the Republican party and one from the Democratic party,*
 - d. Two (2) members of the Indiana Senate, one from the Republican party and one from the Democratic party,*
- 5. Local election officials, who shall be:*
 - 1. The President of the Association of Clerks of the Circuit Courts of Indiana, The Chair of the Indiana Voter Registration Association, and A maximum of two (2) County Clerks,*

County officials, who shall be:

 - 1. The President of the Association of Indiana Counties, and*
 - 2. The President of the Indiana Association of Cities and Towns.*
 - 3. The Chairman of the Indiana Democratic Party or his designee,*

The Chairman of the Indiana Republican Party or his designee,

i) A maximum of two (2) representatives of the general public.
- 5. The Election Integrity Task Force shall be staffed by the Indiana Election Division of the Office of the Secretary of State.*
- 6. Each Election Integrity Task Force member shall be entitled to the reimbursement of travel expenses and other expenses actually incurred in connection with the member's duties as provided in state travel rules and in accordance with other applicable law.*
- 7. The Election Integrity Task Force shall work together with and complement the activities of all standing and interim legislative committees that may address election integrity issues.*

8. *The Election Integrity Task Force shall commence its work with dispatch. The Election Integrity Task Force shall issue its final report to the Governor not later than November 6, 2001.*

IN TESTIMONY WHEREOF,

*I set my hand and cause to be affixed
the Great Seal of Indiana in this 1st day
of February, 2001.*

*Frank O'Bannon
Governor*

Dedication

The events of September 11, 2001, were unlike any in our history. These demonic acts were meant to disrupt and destroy our faith in America's democratic system. But our love of country, liberty and freedom is stronger than ever. Faith and trust in our political institutions remain firm.

It is in the framework of this moment in American history with our national will being tested so stridently, that this report is issued. The events following the presidential election of 2000, which dominated our attention so completely just under a year ago, seem dwarfed in comparison to our current trial.

Yet both of these events are, in the most basic American way, inextricably linked.

They prove that, although imperfect and fallible, our system of government, "of the people, by the people and for the people," shall indeed not perish from the earth. It is our duty today — as it was our responsibility in the wake of the election of 2000 — to reform, update and modernize Indiana's election process.

An election system that is fair, impartial and trusted by the people is the most potent anti-terrorist weapon yet conceived. As members of the Bipartisan Task Force on Election Integrity, we hope that our efforts on behalf of the people of Indiana help to make our great state stronger and our strong nation even greater.

We humbly dedicate this report and the reforms that must surely follow to the sacred memory of those who gave their lives for freedom on September 11, 2001.

INTRODUCTION

The disputed presidential elections of 2000 were a wake -up call to the nation. Voters and elections professionals alike began to question an election process that provides the foundation of our local, county, state and national governments. As a nation we discussed lessons in history, civics and representative democracy. Media headlines proclaimed an oncoming crisis of confidence in the way elections are conducted.

In response to these concerns, Indiana Governor Frank O'Bannon and Indiana Secretary of State Sue Anne Gilroy joined together on February 1, 2001, to form a bipartisan Task Force to review voting in Indiana and to promote accurate, reliable and fair elections for all the citizens of Indiana. Members of the Task Force were chosen from around the state and included state legislators, election professionals, county officials, a mayor, two citizen representatives and the state Republican and Democratic Party leaders.

With Executive Order 01-02, the Governor charged the Task Force with examining the following areas:

1. Local and statewide voter registration systems and databases
2. Voting and Vote counting systems
3. On-line voter registration
4. Absentee and military ballots
5. Remote voting (including internet and mail)
6. Election dates and voting hours
7. Location and accessibility of polling places
8. Fiscal impact of the proposed reforms

For eight months, the Task Force has traveled the state listening to and talking with elections professionals, representatives of citizens advocacy groups and the

users of the system — the voters. We've held a technology fair where members of the public could test different types of voting equipment and provide feedback to vendors and the Task Force. We conducted a statewide conversation using videoconferencing technology that connected seven sites for three hours and included several hundred speakers and observers. We've met in small groups and large groups and we've continually asked, — "What's in the best interest of the voter?"

In the following pages, we make recommendations that answer that question in great detail while maintaining attention toward fiscal responsibility, vote security and issues of responsibility.

A Note About Reform

Recognizing the need for reform is not a criticism of Indiana's lawmakers or those who administer elections in Indiana. Legislators and election officials are dedicated to, and do perform a remarkable job with the limited resources at their disposal. Recognizing the need for reform is an acknowledgment that we have been presented with an opportunity to move forward.

With extraordinary bipartisan cooperation, in its 2001 session, the Indiana Legislature passed dramatic reforms in key areas of the election process. Using this new legislation as a beginning platform, members of the Task Force believe that there is still work to be done.

The Task Force report is not, nor can it be, the final word in election reform. The world is not a static place. Technology continues to advance at a breathtaking pace and opportunities that do not exist today may present themselves in the future. The Task Force's goal is to provide firm recommendations for today while mapping out a direction for the future. Election reform must be continually revisited. As with our freedom, which has been secured at such high cost, we must never take the foundation of that freedom — free elections — for granted.

In providing these recommendations the Task Force is mindful that election reform should ensure that every eligible voter be allowed to vote and that every vote count. These goals are as unimpeachable as the right to vote itself, yet merely reaffirming these goals provides little guidance for the implementation of reforms that promote them.

In the following pages, we have drafted a report that makes specific action - oriented recommendations that promote the goals for which this Task Force was formed: to ensure the integrity of elections in Indiana.

LOCAL AND STATEWIDE VOTER REGISTRATION SYSTEMS AND DATABASES

The problem:

In the United States federal system, the maintenance of voter registration rolls is largely entrusted to the states. In Indiana, state government has delegated much of the responsibility for maintaining voter registration rolls to county officials. Due to a combination of federal legislation and the increased mobility of our society, the registration rolls in Indiana contain many registrations that are no longer valid. This situation creates the opportunity for fraud and diminishes public confidence in the integrity of elections.

In 1993, the Congress enacted the National Voter Registration Act ("NVRA"). The NVRA made it easier to register to vote by mandating that state agencies that provide certain services to citizens also offer voter registration services. For example, state agencies that furnish driver's licenses are required to offer the opportunity to register. In Indiana, the agency that issues driver's licenses is the Bureau of Motor Vehicles ("BMV"). Fifty-two percent of all voter registration applications in the State of Indiana are completed through BMV offices.

In addition to the registration provisions, NVRA enacted restrictions on state and local officials that affect the maintenance of voter registration rolls. For example, a voter's registration may not be cancelled because the voter has not cast a ballot in past elections. While voter registration maintenance activities remain legal, in many instances the NVRA has increased the cost of the maintenance, without providing additional federal funding to offset these new expenses.

Conversely, on Election Day and for many weeks following the election, many voters complain that they were denied the opportunity to vote even though they registered at an NVRA agency. This confusion is created when a county

registration office does not have the most current and accurate voter registration records on file In Indiana. As in many other states, a person must be on the precinct pollbook before being allowed to vote. If the records are not accurate, then the poll books will not reflect the true population of registered voters.

The impact of the NVRA combined with the increased mobility of the United States society¹ has resulted in voter registration rolls that contain duplicate and invalid registrations. Counties may conduct voter registration maintenance activities, including, but not limited to, the cancellation of registrations at the voter's request, cancellation of voter registration upon the death of the voter and the cancellation of a voter's registration following conviction of a crime and incarceration.

Still, there are problems with the accumulation of registrations that are no longer valid. An invalid registration may occur when a registered voter moves out of state without canceling his registration in Indiana. A registered voter may unknowingly create a duplicate registration in Indiana when the voter moves within the state without canceling the prior registration or transferring the registration from the old county to the new county.

Correction of these myriad problems will require actions that are both legislative and administrative in nature.

Recommendation 1

The Task Force recommends that the Indiana Election Division implement a statewide on-line voter registration database that maintains county control of registration data added to or removed from the database.

The purpose of voter registration systems is to authenticate voters at the polling places. This helps prevent abuses like duplicate voting, voting by non- citizens and other abuses.² In addition, since we vote for candidates in our geographic district, a registration tied to geography ensures that voters receive a ballot with the appropriate candidates.

To reduce duplicate registrations, Indiana conducts a statewide duplicate elimination program. The election division contracts with a vendor who compiles voter registration data from all ninety-two counties. This consolidated data is searched for potential duplicate registrations. Follow up action, including the cancellation of voter registrations is taken depending on the response or lack of response to mailings to those identified as having duplicate registrations.

The duplicate elimination program has had limited success in reducing the voter registration rolls in Indiana. The reasons include:

- Inadequate funding to conduct the program on an on -going basis. Typically it is conducted in even numbered years.
- A lack of uniformity in the registration software counties used in making the submissions
- A lack of uniformity in the format and coding of registration data (in some counties the code “c” stands for cancelled, in others it stands for “inactive”);
- Registration data counties submitted is incomplete (usually addresses);

- Lack of a unique identifier that would assist in identifying more duplicates.

The Task Force recommends that a statewide voter registration database be designed in a manner that eliminates the problems identified above. Toward that end, the Indiana Legislature enacted House Enrolled Act 1510, in the 2001 session. This legislation directs the Election Division to create an on-line statewide voter registration file with county control over entry and maintenance of county voter registration data. County voter registration offices are directed to transmit voter registration information to the Election Division over the Internet, in a manner and method prescribed by the Election Division, through a secure connection to the statewide voter registration file, not later than July 1, 2004.

RECOMMENDATION 2

The Task Force recommends that counties utilize voter registration systems that conform to standardized data format and data transmission protocols established by the state. If a county cannot meet the requirements necessary to communicate and connect with the statewide voter file, as called for by HEA 1510, then the state should provide the necessary hardware and software to meet the goal of complete statewide integration of the voter registration database by July 1, 2004.

The Task Force devoted much time and attention to a discussion of this system, focusing on whether or not the statewide system should utilize the software of a single vendor. There are advantages and disadvantages in depending on one vendor.

Some counties feel that they are capable of interacting with a statewide voter registration database with their current vendor and emphasize the disadvantages of using one vendor. Being dependent on one vendor hinders competition and creates a dependency that may become unhealthy. There is great concern that a problem in the software of a central vendor, or a problem with establishing a

connection to a central database, would leave counties without access to their voter registration rolls at a critical time. Further, establishing standardized data formats and data transmission protocols rather than simply relying on one vendor prepares the state for the integration of the statewide database with other full-service voter registration entities in Indiana as well as other states when such integration becomes feasible.³

The use of multiple vendors also has disadvantages, it creates the risk that interconnectivity will not be seamless. We know from experience that when such connectivity problems are encountered, competing vendors often blame each other for the problems. This creates the potential for leaving election officials, and voters without necessary services at a critical time in the election process.

It is clear that there must be accountability for making this system work. At the least, uniform standards for formatting voter registration data and data transmission protocols must be defined. The state can promote such accountability with the use of incentives.

HEA 1510 establishes that county voter registration offices shall transmit voter registration information to the statewide registration database “in a manner and using a method prescribed by the election division...” therefore, the election division is delegated to establish formatting and connectivity protocols. To promote accountability through incentive, the state should provide to those counties whose vendor cannot meet these protocols a system that will do so. In addition to the voter registration function, a voter registration system with enhanced capabilities packaged with other election management tools could be offered .⁴

RECOMMENDATION 3

The Task Force recommends that the Indiana Election Division seek input from county election officials, independent technical analysts and political parties in the creation of uniform standards for data format and data transmission protocols.

The Task Force recognizes that the establishment of uniform data formats and data transmission protocols requires additional study. Counties, the primary end users of this statewide registration database, should have input into this process so that it is designed with full understanding of their needs, capabilities and concerns. In addition, the election division should seek input from technical analysts independent of any prospective vendor. That expertise may exist in state government or may require the services of a consultant. Finally, the establishment of the technology and protocols for the statewide voter registration file should be coordinated with full service registration agencies, like the Bureau of Motor Vehicles, in anticipation that these agencies may, at some point, be electronically linked to the statewide voter registration database.

RECOMMENDATION 4

The Task Force recommends that Indiana assign a unique identifier for each new voter registration and explore avenues for the collection of unique identifiers for previous voter registrations.

One of the problems in conducting a duplicate elimination program is the lack of a unique identifier for each voter registration. Duplicate elimination programs identify far fewer duplicate registrations than actually exist. For example, a person named Jane A. Hoosier may register as “Jane Hoosier”, “Jane A. Hoosier”, “J. Anne Hoosier ” or “J. A. Hoosier” in four different counties. Even though this is the same person, the current system might not identify these registrations as potential duplicates.

A unique identifier would assist in identifying these name variations as the same person. If the last four digits of Ms. Hoosier's social security number is 5432, and the last four digits of the social security number are used as an additional "match" criteria, then all of these different name variations may be identified as potential duplicates.

The Indiana legislature has established a unique voter registration "identifier" to assist in the elimination of duplicate registrations. Effective July 1, 2001, an individual applying to register to vote is **required** to provide a "voter's identification number." This number must either be an Indiana driver's license number or an identification card number as issued by the Indiana Bureau of Motor Vehicles (BMV). If an individual does not have a BMV -issued drivers license or identification card, then the individual must provide the last four digits of his or her social security number to be used as the voter's identification number.

In addition to these new registrations, the statute directs that, during an election, a precinct election clerk explain the voter identification number to each voter and request that each voter write a voter's identification number on the poll book. However, the clerk must explain that a voter is **not required** to provide a voter identification number at the polls in order to vote. If a voter identification number is provided at the polls the voter's registration record may be updated with that number and used in future voter list maintenance activities, including future duplicate elimination programs.

The Task Force recommends that additional ways should be pursued to voluntarily obtain a voter identification number from registered voters who have existing registrations. Voter identification numbers could be requested from voters in any election mailing. In addition, county voter registration offices and the election division could post the information on their websites to prompt those with registrations existing before July 1, 2001 to provide a voter identification number.

RECOMMENDATION 5

The Task Force recommends that Indiana cooperate with the federal government in promoting the adoption of a single nationwide unique identifier.

Indiana's duplicate elimination program attempts to identify duplicate registrations within the state of Indiana. This program does not identify the registrations of those who have moved out of state. If a voter moves out of Indiana and establishes residence in another state then they are no longer qualified to vote in Indiana. However, if the voter does not cancel his/her registration then it remains active on Indiana's registration rolls.

If Indiana's statewide registration database were linked to other states' databases, those persons who move out of Indiana, and register in another state, could be identified by comparing the registration databases of both states to identify potential duplicate registrations.

In addition, the interconnectivity of different statewide databases would be enhanced if the databases were not reliant on vendor-specific data format and communication protocols, but consistent with general data format and communication protocols adopted voluntarily.

RECOMMENDATION 6

The Task Force recommends that an electronic link be established between the statewide voter registration database and full-service voter registration agencies in Indiana.

As stated, the NVRA mandated that certain state agencies, like Indiana's BMV, provide voter registration services. These agencies are required to affirmatively offer voter registration applications to certain customers and provide assistance,

if necessary, in filling out a registration form. They must also document if the customer declines to submit a voter registration application. These agencies are called “full service” agencies. In addition to the BMV, full service agencies include the Department of Work Force Development and the Family and Social Services Agency. Once a full service agency obtains a registration application from a customer it is responsible for forwarding that application to the appropriate county registration official.⁶

Registration applications submitted at full service agencies are not added to a county's registration rolls until the original application is received by the county registration official, reviewed and approved. There may be a number of reasons that a registration application may be rejected. The registration application may not be signed or it may be missing information necessary to process the application. In that case, it is the responsibility of the county registration official to contact the applicant and attempt to get a signature or obtain the missing information.

On Election Day if a voter who claims to have registered at a full-service agency is not listed on the pollbook he/she may still vote in Indiana under two different procedures:

- 1) The circuit court clerk issues a “certificate of error” indicating that the voter is not on the pollbook due to an error made by the county registration office;
- 2) The voter may produce a receipt issued to the voter by the full service agency when the voter submitted his/her registration application at the agency.

Without the certificate of error or receipt, a person may not vote.⁷

The Task Force would like to contribute a positive suggestion that may alleviate an apparent disconnection between full service agencies and local voter registration offices. The Task Force recommendation that these full service agencies be electronically linked to the statewide voter registration database would provide an additional audit trail for each voter registration application. In

addition to submitting the original registration application at the full service agency, the full service agency could submit the registration application in an electronic format to the statewide database. The county to which the registration application pertains would receive a notice of the new registration application via its connection to the statewide database. Because voter authentication in Indiana is still based upon the voter's signature on the registration application, the original registration application would still need to be delivered and approved by the county voter registration official. However, the fact that the registration would be submitted electronically provides an audit trail that could be used in a couple of ways. The county would receive notice of the new registration electronically and could schedule that registration for follow-up with the full service agency to trace any missing original registration applications, and the electronic submission could be used as a fail-safe mechanism for voting even if the original application were not recovered. In the latter situation the voter could submit another original application at the polls or, if the audit trail was not discovered in time to let the voter vote at the polls, the voter could submit a provisional ballot (see discussion below) to allow sufficient time for the audit trail to be confirmed and the ballot accepted as valid.

The Indiana legislature has begun to look ahead to the possibilities of establishing an electronic link between agencies with information potentially useful to voter registration officials. While there is currently no immediate plan in place for establishing a link between full service agencies and a statewide voter registration database, in its' 2001 session the legislature enacted HEA 1510 which:

- Requires that an electronic link be established between the election division and the Indiana Department of Health to facilitate the reporting of deaths in Indiana; and
- Requires that an electronic link be established between the Indiana Department of Corrections and the election division to facilitate the reporting of those incarcerated following conviction of a crime.

The Task Force recommends that the development of the statewide voter registration database and the technologies being developed by full service registration agencies be coordinated so that, when it becomes feasible for the legislature to authorize their linkage, the potential problems posed by incompatible technologies will be minimized.

RECOMMENDATION 7

The Task Force recommends that county election officials explore providing voter registration forms as part of the local United States Postal Service change of address packet.

The United States Postal Service provides new residents with a welcoming package that allows them to submit forwarding and change of address requests to the USPS for the orderly delivery of mail. The USPS allows local election officials to include voter registration forms as part of this package. The Task Force recommends that county voter registration officials take advantage of this program to provide a convenient opportunity for Indiana residents to easily change their voter registrations when they relocate.

Recommendation 8

The Task Force recommends that the federal government help improve election integrity by adjusting NVRA mandates to give local officials flexibility to purge outdated voter rolls.

For the voting public, passage of the NVRA has multiplied their opportunities to register to vote, and because of this they are very happy with the results. However, from the administrative side, election officials are concerned about voting lists that are bloated with incorrect or duplicate registrations for voters. Inaccurate voting lists create concern because they invite fraud including ballot box stuffing, ghost voting and the “vote early and often” practice of a single voter casting ballots in multiple precincts.

To remove voters who are deceased or relocated, NVRA regulations define a complicated and burdensome process of mailing all registered voters and asking

for accurate address information. Only when these procedures have been completed can the voting rolls be revised. Federal NVRA mandates should be adjusted so local officials have the flexibility to purge outdated voter rolls.

ON-LINE VOTER REGISTRATION

RECOMMENDATION 9

The Task Force recommends that the Indiana Election Division be open to developments in technology that will make on-line voter registration more convenient for the voter while maintaining the integrity of voter registration and elections and delivering these functions at a cost that is fiscally responsible.

It is important to distinguish between two potential methods for accomplishing voter registration using the Internet. Voter registration can be accomplished using the Internet by downloading a registration form from an Internet site, signing the form and mailing the form to a registration official. Voter registration using the Internet could also be accomplished by permitting a voter to complete and *submit* a voter registration application on-line. This latter method can only be accomplished by use of either a “digital signature” or a “digitized signature.”

The term digital signature is sometimes confused with the term “digitized signature.” A digitized signature is an original written signature that is translated into digital information, or a digital image, that can be reproduced in the same form as the original written signature. This technology is now commonly used for credit card purchases where the purchaser traces his/her signature on a pad that stores the signature as an electronic image. This makes the credit transaction paperless.

A digital signature is not a written signature or an image of a written signature. A digital signature is a digital code that can be attached to an electronically transmitted message that uniquely identifies the sender. Like a written signature, the purpose of a digital signature is to guarantee that the individual sending the message is who he or she claims to be. Digital signatures use public key

cryptography, which employs an algorithm using two different but mathematically related keys, a private key known only to the signer and used to create the digital signature, and the public key, which is ordinarily more widely known and used by the party verifying the digital signature. Although the two keys are related, they are designed so that it is “computationally infeasible” to derive the private key from knowledge of the public key. This technology is now commonly used for making withdrawals from an automatic teller machine (ATM). The user inserts his/her card into the ATM and performs transactions with his account utilizing a private key known as a “personal identification number” (PIN) number to obtain access to the account.

At present, Indiana requires the submission of a voter registration application with an original signature. When a voter goes to the polls, he/she is required to sign the poll book before he votes. The voter’s identity is verified, in part, by matching the original signature on the approved voter registration application with the signature on the poll book.

The Task Force discussed in some detail the desirability of exploring technologies utilizing digitized and digital signatures for voter registration and voting, however the Task Force does not recommend that this technology be employed immediately. The Task Force does recommend that this technology be monitored for possible use in the future. To the extent that such technology can be utilized to make the process of voting more convenient for the voter, while maintaining the integrity of voter registration and elections, at a cost that is non-prohibitive, then application of this technology should be considered.

In the meantime, the Task Force acknowledges that the Indiana legislature has taken steps to utilize existing technology to extend the opportunities to register to users of the Internet. New legislation requires the Election Division make voter registration forms available on its Internet website so that the forms can be downloaded and printed. While the legislation does not provide for direct

registration from the website, the registration application may be filled out while on line, downloaded from the website, printed, signed and mailed or delivered to the appropriate county voter registration office or to the Election Division.

VOTING AND VOTE COUNTING SYSTEMS

The problem:

Putting on an election is an awesome task. On one day, in every voting precinct, machines must be in place — available and working correctly for at least twelve hours — to record the votes of every eligible voter who has, in advance of Election Day, registered properly and become knowledgeable about the candidates and issues. On this day the voter travels to his/her correct polling place, where her/she is greeted and assisted by fellow citizens who are trained to help all voters, including individuals with special needs, and at the same time to be constantly vigilant against potential fraud and abuse. Following the close of the polls, those election workers, many of whom have put in fourteen-hour days already, must escort the voting machine totals to a central location where they are tallied and reported to the citizens and the media —not to mention the anxious candidates. If there is difficulty with a single machine, or a worker gets sick or fails to show up, or if voters have misunderstood a ballot — the entire train can be thrown off of the tracks. There is no other single action that we take as citizens that is as significant as electing our government officials

Many voting machines used in today's elections date back thirty or more years. Yet in those thirty years, technology has improved and taken a prominent place in the everyday lives of people. From ATM's to answering machines to the Internet and computers in the workplace, these machines have drastically changed our perceptions and expectations for the performance of systems that we use. Standards for speed and accuracy that were acceptable in 1971 are not even considered in 2001. The punch card ballots that were proven so confusing in Florida were originally introduced in the mid-1960's and are used by 38% of Indiana counties, a situation that causes voters and candidates alike, discomfort in and mistrust of the system.

With this in mind, Indiana must recognize the fact that many counties are facing difficult financial choices and voting machine technologies are expensive. We must weigh the importance of voting integrity with the constraints of public budgets.

RECOMMENDATION 10

The Task Force recommends that Indiana place a priority on retiring obsolete voting systems and replace them with technology that can be easily understood and used by the voter. The Task Force believes that sufficient certification standards for voting systems are in place. At this time, it is neither feasible nor desirable to recommend a single voting system for statewide use, but in the future technology may improve to a point that it would be feasible to consider one uniform voting system.

One priority of election reform must be the replacement of outdated voting systems. Voting systems can be evaluated technically to confirm that the voting technology employed is accurate and reliable. Before a voting system is used in an Indiana election, state law requires such an evaluation. At present, an independent testing authority must certify all new voting systems in Indiana as compliant with Federal Voting Systems Standards before the voting system is used in an election.

Voting systems can also be evaluated, in part, by the percentage of “over-votes” and “under-votes” associated with a voting system. An over-vote occurs when more votes are cast in a contest than is allowable. An “under-vote” occurs when no vote is recorded for a contest. A recent report released by the CalTech/MIT Voting Technology project purports to assign rates of over-votes and under-votes to the different types of voting systems now in use: paper, lever machine, punch card, optical scan and Direct Electronic Recording (DRE). While such studies add value to the discussion of voting systems, there are many causes other than the accuracy and reliability of a voting system that can contribute to the over-vote

and under-vote phenomenon. These factors include, but are not limited to, voter education, ballot design, and poll worker training. Also significant in the evaluation of this phenomenon is whether voters are provided an opportunity to correct an over-voted or under-voted ballot at the precinct.

In addition, when we use the term “accuracy” in this context it is important to distinguish between the ability of the voting system to accurately **record** the voter’s intent and the ability of the voting system to accurately **count** a voter’s intent that is unambiguously recorded. Some systems are better than others at accurately recording voter intent.

Our experience with the 2000 elections illustrates the importance of making this distinction when discussing punch card voting systems. Once a vote is unambiguously recorded, punch card systems are capable of accurately counting, or tabulating, that vote. The problem with the punch card system is in the area of accurately recording the voter’s intent. As proceedings in the Florida recount were televised we could see that voter intent was difficult to determine in some counties utilizing punch card voting systems because of ambiguous markings on the punch card. Questions arose about whether a “hanging chad” or “dimpled chad” constituted a vote. This problem was exacerbated in Florida by the lack of a uniform standard to apply when, because of those ambiguities, individual ballots had to be manually counted.

Given the potential for ambiguity in recording voter intent with the use of punch card voting systems, The Task Force recommends that the state of Indiana place a priority on replacing punch card voting systems as soon as practical. The Task Force believes that different types of voting systems, currently DRE and optical scan voting systems, are capable of performing accurately and reliably in unambiguously recording voter intent and in tabulating the vote once recorded. Indiana’s certification process addresses these issues. Although the utilization of one voting system statewide would standardize one part of the voting process

statewide and contribute toward standardization of the over-vote and under-vote phenomenon, it would not eliminate such variations.

There may be reasons, unique to a county, which would cause that county to choose one of the voting systems currently available over the other. In addition, some counties have forged ahead and updated their voting systems, and it would be inequitable, at this point, to require these counties to incur the expense of replacing their newer voting systems, which perform well, with a mandated statewide voting system. Further, even though a certain type of voting system may be the dominant technology today it is uncertain what may be the best technology in the future. It is even possible that a combination of voting systems may be the most desirable choice for a county.⁸ Any new voting system must be certified as compliant with the Federal Voting System standards and by an independent testing authority before the Indiana Election Commission approves the voting system for use in Indiana elections. This certification provides a sufficient level of assurance that voting system being proposed for use in Indiana is accurate and reliable of voting systems.⁹ In sum, a consideration of all of these factors weighs against recommending a single uniform statewide voting system at this time.

RECOMMENDATION 11

The Task Force recommends the use of provisional ballots.

Provisional ballots provide voters whose registration status cannot be determined at the polls or verified at the elections office the opportunity to vote. Under this procedure, a voter who arrives at the precinct and is not on the pollbooks, and whose registration cannot be verified by the county voter registration office, submits a provisional ballot. This ballot is segregated and submitted to a process later on Election Day, or after Election Day, in an attempt to verify whether the voter is qualified to submit a vote.

This process should be distinguished from other NVRA-mandated fail-safe provisions that have been implemented in Indiana. For instance, if a voter moves out of his precinct more than 30 days prior to the election but he moves within the same congressional district, the voter may be allowed to vote by executing an affidavit that recites these facts. For a complete description of this and other NVRA-mandated fail-safe provisions, see attached Appendix A.

Although the fail-safe provisions are distinct from provisional voting, the two can operate in tandem. As the report submitted by the *National Commission on Federal Election Reform* observed, the NVRA mandated fail safe procedures are “complicated enough to confuse experts...” Yet, we ask over-worked and under-paid precinct workers, who perform their election duties only on Election Day, to accurately administer these provisions.

An additional benefit to providing the opportunity for the submission of provisional ballots is that voters qualified under one of these NVRA-mandated fail safe provisions, but refused the opportunity to vote by a confused or ill-informed precinct worker, may be allowed to submit a provisional ballot for examination by more qualified personnel.

The use of provisional ballots also reduces the potential conflict between precinct workers and voters by providing an alternative to turning away the voter. Provisional ballots may eliminate delays in voting for those standing in line behind a voter whose registration cannot be immediately verified.

Provisional ballots have been used with great success in nineteen other states.¹⁰ If implemented, however, care must be taken that the process does not prevent the timely completion of an election, especially given that, in a presidential election year, presidential electors must be certified by a certain date.

RECOMMENDATION 12

The Task Force recommends the continuing review and codification of statutory rules for determining voter intent and the recount/contest rules as new technologies arise.

Many of the problems that occurred in Florida during the 2000 Presidential election can be attributed to two factors: the lack of statewide standards for determining voter intent; and the lack of an orderly process for conducting a multi-jurisdictional, or statewide, recount. As new voting systems are certified and other voting processes reformed, it is important to assure that these two critical factors evolve in step.

Unlike Florida, Indiana has a comprehensive set of statutory rules that assist in determining voter intent where that intent is ambiguous. While voter intent is the obvious goal of these rules, it is important to have rules of general applicability established prior to the election so that the process is fair and orderly.

To a large extent the voting system determines and records votes automatically. When voter intent is not automatically recorded or readily apparent, then the ambiguity must be resolved. Some ambiguities are common across systems but many ambiguities are unique to a particular voting system. There was general concern expressed during subcommittee hearings about these rules. There was specific concern that the rules may become outdated as older systems are replaced with newer systems. The Task Force acknowledges these concerns and encourages state election officials to remain vigilant in determining when new standards are needed to resolve ambiguities that can occur with different voting technologies.

Likewise, with respect to recounts, Indiana has the necessary statutory framework to conduct standardized multi-jurisdictional recounts in a timely manner. The State Recount Commission has further refined the recount process

by establishing detailed guidelines. Indiana's recount statutes were used as a model in arguments before the U.S. Supreme Court in the 2000 election. Indiana can take pride in its preparedness.

The fact that Indiana has such detailed recount rules is no accident. It is the result of deliberations in our legislature in the years following a controversial election in our Eighth Congressional District. Therefore, rather than proceeding with confidence that our own procedures compare favorably to Florida's vote counting or recount procedures, our own vote counting and recount procedures should remain under continuing review to keep pace with emerging technologies and revised voting processes.

RECOMMENDATION 13

The Task Force recommends that through the use of the Internet, increased public resources be dedicated to voter education with a focus on voting systems, voters' rights, voter registration deadlines, polling place location and candidate information.

Problems encountered by voters on Election Day can erode the confidence the public has in the integrity of elections. A voter unfamiliar with a new voting system, or confused by the layout of the ballot, may make an error. A voter may not be aware that he/she has the right to correct an erroneous ballot until it is too late to do so. A voter may show up at his/her old precinct to find, after standing in a long line to vote, that he/she has been placed in a new precinct miles away.

If these problems could be resolved by the education of voters and poll workers prior to Election Day, then the public's faith and confidence in elections would be increased. Dissemination of a sample ballot to registered voters and posting the ballot in public places may help voters understand their ballots and reduce voter errors and the time it takes for voters to vote. In addition, a polling place locator

available over the internet could save staff time in answering the phones and voter time in finding the voter's correct polling place.

A voter may be unfamiliar with the voting system in use in a particular county, either because the system is a new one, or because the voter has just moved into the county and has never voted on that type of voting system in use. Information about the voting system, and demonstrations of the voting systems in malls, community organizations, and schools may help voters become comfortable with the operation of the voting system.

A voter may not know of their rights to vote under the NVRA fail-safe provisions or of his/her right to spoil an erroneous ballot and vote another. Likewise, poll workers may be ill-informed on these issues. Both poll workers and voters need thorough education on these issues. In addition, these rights should be posted at the polls as a reference to both voters and poll workers.

Voter education should begin in the schools as part of the curriculum. In addition, local election officials should consider an outreach program to their local high schools. The Task Force encourages the use of *Indiana Kids Election*, co-sponsored by the Office of the Secretary of State, Department of Education, Indiana State Bar Association, The Lilly Endowment, Eli Lilly and Company, Inc. and the Indianapolis Star. *Indiana Kids Election* is Indiana's only statewide classroom election for students in kindergarten through twelfth grade. Among its strengths are its simplicity and faithfulness to the actual election process. In participating schools, students who wish to vote must register by the same deadline as adult voters. Curriculum materials for teachers are provided to help students understand the process and importance of voting. On Election Day, registered students cast their ballots in their school buildings, and the ballots are then submitted to mock polling places.

For Indiana's registered voters, the Indiana Legislature established a voter education fund to reimburse counties for the development and implementation of

programs for educating voters about voting procedures. Though no funds were specifically appropriated for this fund during the 2001 legislative session, the fund promises reimbursement of up to 50 percent of the amount of reasonable development and implementation costs of such a program. In addition to direct appropriation, the fund is designed to accept federal funds remaining in the voting system improvement fund after all eligible counties have been reimbursed for voting systems and to the extent permitted by federal law.

Voter education must become, and remain, a priority for Indiana. It can provide a cost effective solution to many of the problems that occur on Election Day and, as a result, it can contribute to the public's overall confidence in the integrity of elections.

RECOMMENDATION 14

The Task Force recommends improvement in the process for the recruitment and education of precinct poll workers, including:

- **Increasing poll worker pay;**
- **Asking the General Assembly to explore ways to provide greater flexibility to county election boards so that they may reduce the number of poll workers required to staff a precinct;**
- **Requiring political parties to submit their nominations earlier and give county election boards more time to find precinct poll workers if the parties do not submit their nominations by the earlier date;**
- **Lowering the age of poll workers to a minimum of 16 years of age.**

One problem encountered by both voters and election administrators is the lack of precinct poll workers. Precinct election boards are bipartisan. Party officials recruit precinct workers and provide the circuit court clerk with a list of workers that they have nominated.

Often, there is a shortage of workers. Political party officials do not nominate sufficient numbers to fully staff precincts. They recruit workers to perform other Election Day functions, like get-out-the-vote drives, and neglect their obligation to provide sufficient numbers to fully staff the polls. This leaves local county election boards to scramble to obtain a sufficient number of poll workers.

RECOMMENDATION 15

The Task Force recommends county election boards be given more authority to geographically combine polling places.

In addition to providing county election boards with more flexibility in the number of poll workers provided per precinct, the provision for more flexibility in combining precincts would reduce the pressure on political parties and county election boards to find precinct workers and reduce the cost of elections. Currently, county election boards are authorized under statute to combine polling places where an adjoining precinct contains fewer than 250 active voters. The county election boards should be provided greater flexibility to combine polling places based upon their assessment of the number of voters expected on Election Day and the capacity of their voter system to process those voters.

Recommendation 16

The Task Force recommends the establishment of a toll-free voter rights action telephone hotline (1-800-fraud line) in conjunction with designating one state agency to investigate the complaints of voters who believe that they have not been treated fairly in the election process or have witnessed a voting irregularity.

Often, when a voter believes that they have been unfairly denied the right to vote, they are unsure where their complaint should be filed. The Indiana Election Division has no enforcement authority with regards to election fraud or voting rights abuses. They refer cases to the local county Prosecuting Attorney. However, Prosecuting Attorney's offices are over-stretched dealing with public safety issues. Faced with making a choice, the Prosecuting Attorney may not see a single case of voting fraud as demanding the highest priority. By designating a single agency as the location for all voting complaints and allowing that agency the authority to investigate and prosecute misconduct with regards to elections, public confidence in the election system is increased and the potential for abuse is mitigated.

ABSENTEE AND MILITARY BALLOTS AND REMOTE VOTING And ELECTION DATES AND VOTING HOURS

The problem: People are busy. This seems like a trite answer to the question of “Why don’t more people vote?,” but that appears to be the answer. A survey completed by the Census Bureau in 2000 asked non-voters what prevented them from casting a ballot. Five of the top ten reasons revolved around the issue of conflicting or busy schedules or inaccessible polling places. If these are the problems then the solution is to make the process of casting ballots easier for every eligible person who wishes to do so.

When we think about accessibility issues for military persons who are stationed in remote locations, these issues become even more critical. To deny a vote to the servicemen and women, whom we allow to defend our country, is not only unreasonable — it is immoral.

RECOMMENDATION 17

The Task Force recommends the adoption of unrestricted absentee voting for voters casting ballots in person in the clerk’s office or satellite office prior to an election.

In Indiana, an otherwise qualified and registered voter may vote absentee if:

- the voter will be absent from the county on Election Day;
- the voter is scheduled to work the entire twelve hours that the polls are open;
- the voter will be working on Election Day at the voter’s regular job or at the polls;
- the voter is disabled or elderly or the voter will be confined due to injury or illness on Election Day, or will be caring for someone who will be confined due to injury or illness on Election Day;
- the voter is in the military and stationed outside of the United States, or is otherwise an overseas voter, registered to vote in Indiana.

An absentee voter may vote by mail, in the clerk's office before an absentee voter board, or by traveling absentee voting board ("traveling board").

A voter may submit an application for a mail-in absentee ballot up to ninety days before an election and the application must be received by mail or fax by midnight on the eighth day before an election. The vote is counted as long as the mailed ballot is received on Election Day.

Voters may cast a ballot in the office of the clerk between twenty-nine days before an election and noon the day before Election Day. In addition, the Clerk's office must be open at least 7 hours on the two Saturdays preceding Election Day for absentee voting. New legislation permits counties to create satellite absentee voting facilities at locations within the county other than the clerk's office.

These opportunities for casting a ballot make voting more convenient for voters who know in advance that they will be unable to reach the polls on Election Day. However, the Task Force recognizes, that many voters do not know in advance of Election Day whether they will meet the qualifications required under statute to vote absentee. Many do not know beforehand if their job or family obligations will make it difficult for them to make it to the polls on Election Day during the twelve hours that the polls are open. The Task Force is interested in removing barriers to voting and believes this recommendation removes a significant obstacle. Instead of being able to vote on Election Day only, a voter may vote anytime the twenty-nine days preceding the election. If the voter cannot make it to the clerk's office or a satellite facility on a weekday, the voter also has the option to vote on Saturday.

The Task Force does not recommend unrestricted absentee voting by a traveling board. A traveling board consisting of one member from each of the two major political parties visits a voter's home, or a voter's place of confinement, to allow

the voter to cast a ballot. A person may vote by traveling board if the person is confined due to injury or illness (“confined voter”), is caring for a person who is confined due to injury or illness, or is disabled and unable to access a polling place. Voting by traveling board should be limited to those who truly need it. To do otherwise would take valuable resources from those who need it most.

RECOMMENDATION 18

The Task Force recommends follow-up on absentee ballot applications that are not properly completed by the requestor. Every reasonable effort should be made to contact a voter to obtain the required information.

Often, absentee ballot applications that are submitted are not properly completed by the applicant. Because voter registration and absentee balloting may be handled by two different sets of employees in the office, an absentee ballot application can reach county election officials prior to the time a voter registration application is received, processed and added to the voter registration system. This occurs when registration and absentee ballot drives are conducted in tandem and the voter is provided with both a voter registration application and an absentee ballot application. In either case, the absentee ballot application could simply be rejected without follow-up.

The Task Force recommends, as a best practice, that persons who process absentee ballot applications follow-up with the voter to obtain a completed application when possible. In addition, voter registration activities should be closely coordinated to assure that all voter registration applications have been submitted in a timely manner and added to the county’s voter registration system before any absentee ballot application is finally rejected.

RECOMMENDATION 19

The Task Force recommends changing state law to allow absentee voting in the clerk's office with direct record electronic (DRE) voting machines.

Under current state statute Direct Record Electronic (DRE) voting machines may not be used for walk-in absentee voting that occurs in the clerk's office or in a satellite facility established by the county election board. DRE voting machines record a vote immediately. This constitutes "early voting" which is not permitted under state statute. Walk-in absentee voters may vote absentee with other voting systems, e.g., optical scan and paper, because the vote is placed in a sealed envelope and not opened until Election Day. There is currently no certified vendor in the state of Indiana that would allow a vote submitted on a DRE machine to be placed in an envelope (even a "virtual" envelope) in the same manner as other voting systems.

Currently, many counties in Indiana use DRE voting systems and the number likely will increase in the future. These counties must utilize an alternate type of voting system, typically optical scan, for their walk-in absentee voting. This requires additional training for absentee board members and staff, and additional time to instruct voters who have become familiar with the DRE but are unfamiliar with an optical scan voting system. The requirement of maintaining two different kinds of voting systems also adds to the total cost of maintaining voting systems.

RECOMMENDATION 20

The Task Force recommends the standardization and improvement of absentee ballot processes for military/overseas citizens and that military/overseas voters receive confirmation that election officials have received their ballots.

For the military voter many problems are related to registration cut-off dates, the time (or lack thereof) allotted to vote absentee, and mail delivery difficulties due

to geographically remote postings. Indiana has addressed many of these issues.

To address mail delivery problems, military voters who are registered in Indiana but stationed overseas may apply to the circuit court clerk in their county of residence for a special write-in absentee ballot for statewide offices. It is available in June before a general election on the theory that this gives those in the military extra time to apply for, receive and return a ballot before the general election. The application for this ballot is available from county clerks, or may be downloaded from www.in.gov/sos/elections. Indiana also accepts the federal post card absentee ballot application (Standard Form 76) available from the Federal Voting Assistance Program (FVAP) website.

Indiana should address the mail delivery problem by allowing absentee ballot applications to be submitted by facsimile transmission. The total time to receive an absentee ballot application is measured by the time it takes to send an application, and the requested ballot by mail plus the time it takes the completed ballot to be returned by mail, therefore, accepting absentee ballot applications by facsimile can reduce this total time substantially.

The special write-in ballot is prepared before all candidates have been certified, therefore the voter must fill in the name of the person he or she wishes to vote for next to the name of the office listed on the ballot. State statute directs that the vote be counted even though there are minor variations in the name written in, as long as the intent of the voter may be discerned. The Indiana special write-in absentee ballot may be used together with the federal write-in absentee ballot. The federal write-in absentee ballot is for federal offices and is made available to military personnel at military installations and through the Federal Voter Assistance Program (FVAP).

When an military/overseas voter requests an Indiana special write-in absentee ballot, the circuit court clerk will also send the voter a full regular ballot (including

legislative offices and local offices) at the beginning of absentee voting in September prior to the general election. If the regular ballot is returned by Election Day, then the regular ballot will be counted and the special write-in absentee ballot will not. If the regular absentee ballot is not returned before Election Day, then the state and federal write-in absentee ballot will be counted.

Due to military/overseas voters' experience with mail delivery problems, they are often uncertain about whether their ballot has reached the local election official, and if so, whether the ballot was rejected or accepted. Being sensitive to this issue, the Task Force recommends that overseas military voters who cast an absentee ballot be provided confirmation via e-mail that their ballot was received. Because a ballot is confidential, the Task Force does not recommend that overseas and military voters who send their vote by mail receive confirmation of whether or not their vote was actually counted.

RECOMMENDATION 21

The Task Force recommends that military/overseas citizens be allowed to vote by faxed ballots if the voter agrees to waive the right to ballot confidentiality.

The Task Force recommends that Indiana provide military/overseas voters with the opportunity to receive ballots by fax, return votes by fax, or both with the condition that ballots returned by fax be accompanied by a signed document releasing the voter's rights to ballot confidentiality. Waiver of confidentiality documents and fax transmission cover sheets that include a waiver of confidentiality are available from the Federal Voting Assistance Program, which administers the federal responsibilities of the Secretary of Defense under the Uniformed and Overseas Citizens Absentee Voting Act.

RECOMMENDATION 22

The Task Force recommends that Indiana election officials volunteer to participate as a test site for any future Federal Voting Assistance Program involving registration confirmation and status check for military/overseas personnel and any future remote voting programs.

During the 2000 election, the FVAP and the Department of Defense conducted a pilot program to assist some states in providing an opportunity for military/overseas voters to submit their vote via the Internet. In the 2004 Presidential elections, the FVAP intends to test another program that will assist states in providing registration confirmation for military/overseas voters. This will allow those voters to verify their registrations and eligibility to vote in their home jurisdictions. Indiana should apply to participate in this project and any other project offered by the FVAP to facilitate voting by the overseas military voter if it is fiscally responsible to do so.¹¹

Recommendation 23

The Task Force recommends that county election officials allow recently separated or reassigned service persons and their families to register to vote after the registration deadline has passed if they provide a copy of their Government Movement Orders showing that they were relocated after the final voter registration deadline but before and including Election Day.

Often, military service persons are reassigned on very short notice — weeks sometimes even only a few days. Because control for their reassignment rests with their supervising officers, service persons cannot make the same plans and accommodations for relocation as can their civilian counterparts. In light of the significant role that the military play in protecting and serving our society, we wholeheartedly suggest that county election officials make every allowance for them in voting registration.

RECOMMENDATION 24

The Task Force recommends the adoption of unrestricted absentee voting to increase the convenience of voting. If so implemented, the Task Force does not recommend extending the voting hours on Election Day.

While extended voting hours on Election Day may also make voting more convenient, the Task Force does not believe that extending voting hours is a practical option. Poll workers are overworked and underpaid. Fully staffing precincts with required poll workers is a substantial impediment for county election officials. If staffing problems are not adequately addressed by election reforms, extending the hours that polls are open on Election Day will exacerbate existing problems. When these problems are resolved, the issue should be revisited. The act of adopting unrestricted absentee voting provides twenty-nine additional days for voters to cast their ballots, providing far more convenience and flexibility for voters than an additional two hours on election day could have provided.

LOCATION AND ACCESSIBILITY OF POLLING PLACES

The problem: There are many types of barriers to voting: physical barriers, language barriers, and even emotional barriers. For the voter in a wheelchair, preferred parking spaces and ramps that lead into a polling place do no good if the voting machine is located at a height that cannot be reached by someone sitting in a chair.

In Indiana, physical barriers are addressed by the requirement that the county executive (usually the County Commissioners) obtain polling places that meet the standards for accessibility for voters with disability and elderly voters established as specified in 42 U.S.C. 1973ee through 1973ee - 6. In addition, pursuant to statute, the Indiana Election Commission has established *Guidelines for Accessibility of Polling Places*. These guidelines provide standards that address the physical attributes of polling sites, like disabled parking and polling place door width. But this is not enough. Time and again, people with disabilities testified to the Task Force that they faced impediments that involved buildings and people — including poll workers who would not assist a voter when a building or machine was inaccessible.

RECOMMENDATION 25

The Task Force recommends that standards for polling place accessibility and voting machines be updated and that such standards include not only technical specifications regarding the physical attributes of polling places but also guidelines that incorporate sensitivity to the needs of people with disabilities.

If a county executive cannot establish an accessible polling place in every precinct then he/she is directed to establish a special polling place for disabled

and elderly voters and to provide public notice of such a polling place. The county executive must detail in writing, the special polling place and the reason for establishing the special polling place in a report to the Election Division.

A person with disabilities may also vote by traveling absentee board. This board travels to the person's place of confinement to vote the person. A confined voter may cast a ballot by mail. However, a voter with disabilities who is unable to make a voting mark on the ballot, or sign the absentee ballot secrecy envelope, *must* vote before a traveling board. A traveling board is authorized to physically assist a voter in marking the voter's ballot at the voter's request.

If a person is disabled, or unable to read English, and appears at the polls to vote, then the person may designate a person of his or her choice, or the precinct judges, to assist the voter in the poll booth.

With respect to language barriers, state statute authorizes a county election board to print instructions on the ballot in "English and any other language that the board considers necessary..." IC 3-11-2-8. In 1999 the Indiana Election Commission approved a Spanish language absentee ballot application and in 2000 the Commission approved a Spanish voter registration form. Indiana's Hispanic community has experienced explosive growth over the last few years and Indiana communities must monitor the needs of this community.

FISCAL IMPACT OF PROPOSED REFORMS

The problem: The conduct of elections has historically developed primarily as a function of state and local government. In Indiana, as in most states, the primary responsibility to administer elections rests with local election officials. Local governments also bear the associated costs. The federal government bears no cost for the administration of elections to federal office.

Outdated voting systems in use in Indiana need to be replaced. Investment in voting registration systems and voter education is imperative. The Task Force notes, however, that the counties, responsible for purchasing such systems, have limited revenues and competing priorities for funding. The subcommittee considers it undesirable to impose election related mandates upon local governments without adequate funding. Improving elections in Indiana will take a joint federal, state and local partnership.

RECOMMENDATION 26

The Task Force recommends that federal, state and local governments enter into a partnership for election reform and that federal monies for election reform carry a minimum of restrictions to allow state and local governments to target the areas of greatest need.

State and local administration of elections is practical, because federal elections are, for the most part, conducted in conjunction with state and local elections under unique local conditions. However, all levels of government should share the costs of elections. To that end, the Task Force has asked its congressional delegation, by resolution, to consider federal aid to state and local governments with a minimum of conditions, so that spending can best be tailored to the unique election reform needs of state and local government. A copy of that resolution is attached as Appendix B.

RECOMMENDATION 27

The Task Force recommends that Congress and the Indiana legislature provide sufficient funding to reimburse local governments equal to fifty-percent of the cost of the voting systems that need to be replaced.

With respect to voting systems, the Indiana Legislature has taken a step in the right direction by establishing a voting system improvement fund to reimburse counties for the purchase, lease-purchase, or lease of new, upgraded, or expanded voting systems. The legislature designated four million dollars from the Build Indiana Fund for this purpose and if the legislature designates an additional one million dollars by July 1, 2003 then ballot card voting systems will be prohibited in Indiana beginning December 31, 2005. The Task Force does not believe five million dollars will be sufficient to meet the fifty-percent commitment in current legislation. The voting system improvement fund is capable of accepting federal dollars for voting system reimbursements. The federal and state government should provide sufficient funding so that this fifty-percent commitment can be met.

RECOMMENDATION 28

The Task Force recommends that local governments be provided additional flexibility to publicly finance election reforms.

State law should also give local governments more flexibility in raising capital for their election reform needs. For example, voting systems can require a substantial one-time capital outlay. While state law provides for the accumulation of capital over time for investment in improvements like bridges, state law limits, to some extent, the ability of local governments to raise capital expenses for technology purchases. Toward that end, the subcommittee notes that the Indiana legislature adopted new legislation last session (P.L. 41 -2001 and P.L. 251-2001) that will provide local governments additional flexibility in establishing a

cumulative capital improvement fund for the purchase of technology, including computer hardware, computer software, and technology training. Additional attention should be given to other ways local governments could be given the flexibility to publicly finance needed election reforms.

RECOMMENDATION 29

The Task Force recommends an intensive follow-up review of the condition and progress of Indiana elections (similar to the current Task Force) following the presidential election of 2004.

The work of the Bipartisan Task Force on Election Integrity is complete — but the work of election reform is just beginning. If we make recommendations and do not act upon them, we have served neither the voters nor the electoral process. With each upcoming election, voters will judge for themselves whether or not their particular experience with the voting process has improved. Be assured that the media and voter advocates — as they should — will actively seek out and report on incidental problems. To fairly assess Indiana's progress or lack thereof, we believe that it is essential that another Task Force be charged in 2005 with conducting a complete review of the system.

Appendix A

Fail Safe Procedures

Fail safe provisions of federal and state law permits a person to vote in specific circumstances even though the person's name does not appear on the poll list or the person's name or address is different than the name or address that appears on the poll list. These specific circumstances are described below.

A. Fail safe procedures where the voter's name does not appear on the poll list

1. Mistake of County: A voter whose name does not appear on the poll list because of an error made by the county may nonetheless vote. The voter must first obtain a "certificate of error" from the clerk or board before being allowed to vote. Some counties may require the voter to present the certificate of error to the precinct inspector. Most counties allow a voter to vote after confirming over the telephone that a certificate of error will be issued to the voter. The voter is not required to wait until the certificate of error arrives at the polling place. IC 3-7-48
2. The voter's name is not on poll list but the county has a record of them at the address they claim to now live but the record shows the registration has been cancelled: This voter must be allowed to vote in the precinct if the voter is willing to sign a written statement on the poll book in the presence of the inspector or one of the judges that the voter continues to reside at the address in the precinct that was formerly shown on the county's voter registration record. This is so even if the registration records show that the voter's registration at the address was cancelled at the voter's request! The voter is also allowed to make an oral affirmation instead of signing a written statement. If this occurs, the poll clerks must write down the information on the poll book for the voter and initial the statement. IC 3-7-48-5 If this procedure is used the precinct election board should contact the County Election Board so that the County Election Board can contact any other precinct where the voter's name may be incorrectly included on the poll list.

3. The voter's name is not on the poll list but the voter appears at polling place with a receipt from the BMV or other registration agency (VRG-6) indicating that the voter submitted a registered application at the agency before registration closed: If the person is not on the poll list but produces a receipt of registration from an agency, like the BMV, they have a right to vote if: 1) The date on the receipt indicates the voter applied for registration before registration closed (29 days before the election); **AND** 2) the county registration office either has no record of the registration application or shows that the application was received and approved. The voter may not vote if the county's records show that the registration was received and rejected unless the clerk or board determines that the rejection was a mistake.

If the county records show that the registration application was approved but the voter is not on the poll book a certificate of error may be issued. If the county registration office has no record of the registration application being received, the inspector and judge must write the name and address of the voter in the poll book and require the voter to sign the poll list. The inspector and judges **MUST** add a note on the poll list to the effect:

“Permitted to vote after producing receipt per IC 3-7-48-7.

Receipt stated date of application as _____, which was within the registration period. Receipt stated registration office address or ID # as _____, and agency employee as _____.”

If the voter is allowed to vote under this procedure because the county registration office has no record concerning the person's registration application, the county voter registration office is required to notify the election division within seven days after the election so that the election division can investigate to try and determine why the voter has a receipt but the county received no registration application.

B. Fail safe procedures where the voter's name appears on the poll list but the voter's name or address has changed

1. Voter is on poll list but has moved within the same precinct or the voter's name has changed: The voter should sign the poll book with the new address or new name (e.g. married name) and the new address or new name should be updated upon the registration records as soon as registration re-opens 14 days after the election. IC 3-7-39-7

2. Request for Transfer Within 30 Days of Election (VRG-4 form): If the voter moved outside of the precinct to any other precinct in Indiana within the final 30 days of before the election, the voter must produce, or sign before the inspector or a judge, an *Affidavit of Request for Transfer of Registration by Certain Voters Moving Within 30 Days of Election* (VRG-4 form) and then the voter may proceed to vote. IC 3-10-11-6

3. Request for Transfer Within Same County and Same Congressional District (VRG-12 form): If the voter moved more than 30 days before the election outside of the precinct to another precinct that is still in the same county and congressional district, the voter must produce, or sign before the inspector or a judge, an *Affidavit of Request for Transfer of Registration Within Same County and Congressional District* (VRG-12 form), and then the voter may proceed to vote. Federal law also allows the voter to make an "oral affirmation" of this information in the presence of the precinct election board. If this happens, the poll clerks must complete the VRG-12 form for the voter and initial the form in the indicated places. IC 3-10-12-3

4. Voting for President and Vice-President Only (VRG-15 form): If the voter moved from an Indiana precinct to a new residence outside of Indiana and moved within the final 30 days before election day, the voter must produce, or sign before the inspector or a judge, an *Affidavit for Presidential Voting Only* (VRG-15) and then the voter may proceed to vote. However, the voter may only be given a ballot to vote for president and vice-president. IC 3-10-10

Note: within 30 days after registration opens after an election, a county voter registration office must mail the request for transfer of registration affidavits (VRG-4 and VRG-12) together with the original affidavit of registration, to the county where the person now resides and operates as a transfer of registration to the new residence. IC 3-7-43-4 If the person is allowed to vote with a VRG-15 then this affidavit constitutes authorization to cancel the person's registration. IC 3-7-43-5

Appendix B

Resolution of The Indiana Bipartisan Task Force On Election Integrity

WHEREAS, the Indiana Bipartisan Task Force on Election Integrity (Task Force) met on April 20, 2001 to discuss the status of its own investigations on election reform in Indiana;

WHEREAS, the Task Force received at its meeting a report on the status of federal legislation;

WHEREAS, the Task Force has not finished its deliberations but has made the initial determination that meaningful reform will require a combined federal, state and local government commitment;

WHEREAS, the Task Force recognizes that election administration is primarily entrusted to state and local election officials who must retain flexibility in election administration to tailor election reform to specific conditions that exist in Indiana (particularly in the areas of voting systems, voter registration, and voter education);

BE IT RESOLVED, that the Task Force requests its Congressional delegation to commit their best efforts to supporting legislation that provides federal funding to state and local governments with a minimum of federally-imposed conditions on the use of such funding to assist state and local election officials in addressing the unique problems and conditions in Indiana.

Acknowledgements

The Task Force wishes to express its gratitude to the following individuals and groups, who along with the hundreds of citizens across Indiana that wrote letters or testified at one of our public hearings, contributed their time, effort and vision for a better Indiana.

Todd Rokita, Deputy Secretary of State; Stephanie Mannon, Special Assistant to the Secretary of State; Laurie Christie, Co-Director Indiana Election Division; Spencer Valentine, Co-Director, Indiana Election Division; Dale Simmons, Co-General Counsel, Indiana Election Division; Kristie Robertson, Co-General Counsel, Indiana Election Division; Peter Pitts and Cara Hodges, Wired World, Inc.; Indiana Association of Clerks; Beth Millett, proofreader; Laurie Peterson, Governor's Fellow; Josh Esslinger, Indiana Election Division Intern; Davey Neal, Indiana Secretary of State's Office; Linda Grass, Hancock County Clerk; Tammy Baretto, League of Women Voters; Holly Davis; Amos Brown; Director of Strategic Research for Radio One Indianapolis; Dr. Robert Proctor, Purdue University; Dr. Dan Moore, Rose-Hulman University; Ray Cipra, Purdue University; Col. Joseph Ryan, The Retired Officers Association; Kathy Fleck; Ken Montgomery and the staff of Channel 16 – Indianapolis, Regina Moore, Lake County Indiana Voter Registration Office, Democratic Floor Supervisor; Lance Ryskamp, Lake County Voter Registration Office, Republican Assistant Chief; Representative Jonathon Winezappel; Karen Wenger, Delaware County Circuit Court Clerk; Virginia Morgan and John Beeson and the staff of the Indiana University Office of Continuing Studies; Indiana University Purdue University Indianapolis; Indiana Purdue University in Fort Wayne; Indiana University South Bend; Indiana University Northwest; Ball State University; Evansville-Vanderburgh Public Library; Indiana University Southeast

Copies of public testimony, transcripts of hearings and supporting documents are on file in the office of the:

Indiana Election Division
Indiana Government Center South
302 W. Washington Street
Indianapolis, IN 46204
317-232-3939

¹ In March 2000, the Census Bureau estimated that over 15% of eligible voters had moved in the previous year.

² One study, sponsored by the *Atlanta Journal and Constitution*, discovered that over a twenty-year period 5,400 dead people were discovered to have voted in Georgia.

³ The report issued by the *National Commission on Federal Election Reform* observed: "It is promising that the International Organization for the Advancement of Structures Information Standards (OASIS) which creates industry specifications for structured information processing has formed an Election and Voter Services Technical Committee to develop Election Markup Language (EML) based on XML (extensible markup language). Such an innovation will facilitate interchange of data among the agencies with information relevant to voter eligibility. Establishment of an open industry standard will help states modernize their systems more effectively at a lower cost and lower the barriers of entry to possible software developers." *Report* at pg. 75, end nt. 20. The full text of the report is available on line at www.reformelections.org.

⁴ The Task Force engaged in much discussion about such enhanced voter registration and election management capabilities. That discussion includes, but is not limited to: 1) NVRA-compliant notice and report generating capability; 2) absentee ballot management and tracking; 3) precinct worker tracking and payroll processing; 4) Graphical Information System capability for precincting or redistricting; 5) Scanning and bar coding capability; 5) pollbook printing capability; 6) ad hoc and custom report generating capability; and 7) Internet and Intranet browser capabilities.

⁶ The Indiana Bureau of Motor Vehicles alone accounts for 52% of all new registrations in Indiana.

⁷ There are other fail-safe procedures applicable in circumstances where the voter has moved from the address listed on his registration.

⁸ The Cal Tech/MIT Voting Technology compared optical scan systems with DRE systems and concluded that optical scan voting systems, compared to *existing* DRE systems, may currently be the best technology in terms of "lost votes." However, the report noted that electronic voting is an "improving technology" with "great potential." Among its potential advantages, the report noted that DRE systems: 1) prohibit the register of over votes; 2) make miscounting virtually impossible; 3) create the possibility for designing interfaces for blind voters and; 4) are capable of providing customized ballots on the spot. It is possible that, because of its ability to accommodate blind voters, a county may have an optical scan system for non-blind voters and purchase a number of DRE voting systems to accommodate blind voters who wish to vote independently at special polling places established for that purpose. According to a survey of costs associated with these two types of systems, the report noted that DRE systems had higher initial costs but that optical scan systems had higher ongoing operational costs. The report noted that these costs evened out after about 15-20 years of system use. The report noted that the cost of DRE systems would probably come down in the future and suggested voting equipment lease arrangements as an alternative to outright purchase. Report, pp. 20-24

⁹ The primary goal of the standards is to provide a vehicle for state and local election officials to assure the public of the integrity of computer-based election systems. These standards are currently being revised. Volume one of the revised standards has been released for public comment and the FEC expects that volume 2 will be released this fall so that the revised standards will meet with final approval by next spring. A joint report issued by the FEC and the National Association of Election Directors titled *Updating the Voting System Performance and Test Standards: An Overview*, the report states that the new guidelines will address new issues,

including accessibility guidelines and human interface and usability standards. The report points out that interface and usability issues for the general voting public are “addressed in standards for ballot formatting which require such things as the uniform allocation of space and fonts, the simultaneous display of all choices for a single contest on one page, an easy navigation of multi-page ballots. The report cautions, however, that neither the original standards, nor the updated standards, adequately address detailed test standards for interface and usability but indicates that it contemplates that the “next module to be added to the VSS will focus on interface and usability issues including, but not limited to, such things as typography, layout, use of graphic elements, sequencing, screen flow (for electronic and internet systems), language simplification and user testing.” The report may be downloaded from the FEC’s website at www.fec.gov

¹⁰ In Los Angeles County, California, two-thirds of the provisional ballots that were issued on Election Day in 2000 were valid ballots.

¹¹ A report released by the Center for Public Integrity revealed that the Pentagon spent \$6.2 million- almost \$74,000 per voter- on the two-year pilot program, which allowed 84 voters to cast their November absentee election ballots over the Internet. An FVAP report detailed the results of the pilot program and offered suggestions and predictions for possibilities of future success, but ultimately concluded that more work would be necessary before Internet voting could be used on a wider scale.